

House Study Bill 657

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain human services programs directed to
2 families with a child with a disability and to persons with a
3 disability and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5353DP 81
6 jp/je/5

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1 1 DIVISION I
1 2 FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY
1 3 SUPPORT PROGRAMS
1 4 Section 1. Section 225C.37, subsection 2, Code 2005, is
1 5 amended to read as follows:
1 6 2. Verification that the family member meets the
1 7 definitional requirements of section 225C.35, subsection 3.
1 8 ~~Along with the verification, the application shall identify an~~
1 9 ~~age when the family member's eligibility for the family~~
1 10 ~~support subsidy under such definitional requirements will end.~~
1 11 ~~The age identified is subject to approval by the department.~~
1 12 Sec. 2. Section 225C.38, subsection 1, paragraphs b and c,
1 13 Code Supplement 2005, are amended to read as follows:
1 14 b. A family support subsidy shall be used to meet the
1 15 special needs of the family. This subsidy is intended to
1 16 complement but not supplant public assistance or social
1 17 service benefits based on economic need, available through
1 18 governmental programs ~~or other means available to the family.~~
1 19 c. Except as provided in section 225C.41, a family support
1 20 subsidy for a fiscal year shall be in an amount ~~equivalent to~~
1 21 ~~the monthly maximum supplemental security income payment~~
1 22 ~~available in Iowa on July 1 of that fiscal year for an adult~~
1 23 ~~recipient living in the household of another, as formulated~~
1 24 ~~under federal regulations. In addition, the parent or legal~~
1 25 ~~guardian of a family member who is in an out-of-home placement~~
1 26 ~~at the time of application may receive a one-time lump-sum~~
1 27 ~~advance payment of twice the monthly family support subsidy~~
1 28 ~~amount for the purpose of meeting the special needs of the~~
1 29 ~~family in preparing for in-home care determined by the~~
1 30 ~~department in consultation with the comprehensive family~~
1 31 ~~support council created in section 225C.48. The parent or~~
1 32 ~~legal guardian receiving a family support subsidy may elect to~~
1 33 ~~receive a payment amount which is less than the amount~~
1 34 ~~determined in accordance with this paragraph.~~
1 35 Sec. 3. Section 225C.38, subsection 2, Code Supplement
2 1 2005, is amended by adding the following new paragraphs:
2 2 NEW PARAGRAPH. c. A family that adopted a special needs
2 3 child and is receiving financial assistance under section
2 4 600.17 is not eligible for the family support subsidy for that
2 5 child.
2 6 NEW PARAGRAPH. d. A person who receives medical
2 7 assistance home and community-based waiver services and lives
2 8 in a county in which the comprehensive family support program
2 9 services are available is not eligible to receive the family
2 10 support subsidy.
2 11 Sec. 4. Section 225C.40, subsection 3, Code 2005, is
2 12 amended to read as follows:
2 13 3. If an application for a family support subsidy is
2 14 ~~denied, the family member end-of-eligibility age identified in~~
2 15 ~~the application is not approved by the department, or a family~~
2 16 ~~support subsidy is terminated by the department, the parent or~~
2 17 ~~legal guardian of the affected family member may request, in~~
2 18 ~~writing, a hearing before an impartial hearing officer.~~

2 19 Sec. 5. Section 225C.41, unnumbered paragraph 2, Code
2 20 2005, is amended to read as follows:
2 21 Notwithstanding section 8.33, funds remaining unexpended on
2 22 June 30 of any fiscal year shall not revert to the general
2 23 fund of the state but shall remain available to provide family
2 24 support subsidy payments or to expand the comprehensive family
2 25 support program in the succeeding fiscal year.

2 26 Sec. 6. Section 225C.42, subsection 1, Code Supplement
2 27 2005, is amended to read as follows:
2 28 1. The department shall conduct ~~a periodic~~ an annual
2 29 evaluation of the family support subsidy program in
2 30 conjunction with the comprehensive family support council and
2 31 shall submit the evaluation report with recommendations to the
2 32 governor and general assembly. The report shall be submitted
2 33 on or before October 30 and provide an evaluation of the
2 34 latest completed fiscal year.

2 35 Sec. 7. Section 225C.47, subsection 4, Code 2005, is
3 1 amended to read as follows:

3 2 4. A family may apply to the department or to a family
3 3 support center developed pursuant to this section for
3 4 assistance under the comprehensive family support program.
3 5 The department or family support center shall determine
3 6 eligibility for the program in accordance with the provisions
3 7 of this section.

3 8 Sec. 8. Section 225C.47, subsection 5, unnumbered
3 9 paragraph 1, Code 2005, is amended to read as follows:

3 10 The department shall design the program in consultation
3 11 with the ~~personal assistance and comprehensive~~ family support
3 12 services council created in section 225C.48. The department
3 13 shall adopt rules to implement the program which provide for
3 14 all of the following:

3 15 Sec. 9. Section 225C.47, subsection 5, paragraph e, Code
3 16 2005, is amended to read as follows:

3 17 e. A process is available to appeal the department's or
3 18 family support center's decisions involving families ~~which~~
3 19 that apply for the comprehensive family support program and
3 20 are denied services and support under the comprehensive family
3 21 support program. The department shall make reasonable efforts
3 22 to utilize telecommunications so that a family initiating an
3 23 appeal may complete the appeal process in the family's local
3 24 geographic area.

3 25 Sec. 10. Section 225C.47, subsection 5, paragraph i, Code
3 26 2005, is amended to read as follows:

3 27 i. The utilization of a voucher system for payment
3 28 provisions for the ~~children-at-home~~ family support center
3 29 component of the program developed under subsection 7.

3 30 Sec. 11. Section 225C.47, subsection 7, Code 2005, is
3 31 amended to read as follows:

3 32 7. The comprehensive family support program shall include
3 33 a ~~children-at-home~~ family support center component developed
3 34 by the department in accordance with this subsection. ~~A~~
3 35 ~~family eligible for the comprehensive family support program~~
4 1 ~~may choose the children-at-home component.~~ Under the
4 2 ~~children-at-home~~ component, a family member of an individual
4 3 with a disability shall be assisted by ~~department staff~~ a
4 4 family support center in identifying the services and support
4 5 to be provided to the family under the family support subsidy
4 6 program or the comprehensive family support program. The
4 7 identification of services and support shall be based upon the
4 8 specific needs of the individual and the individual's family
4 9 which are not met by other service programs available to the
4 10 individual and the individual's family. ~~Based upon the~~
4 11 ~~services and support identified, the department shall develop~~
4 12 ~~a contract for direct payment of the services and support~~
4 13 ~~provided to the family.~~

4 14 Sec. 12. Section 225C.48, Code 2005, is amended to read as
4 15 follows:

4 16 225C.48 ~~PERSONAL ASSISTANCE AND~~ COMPREHENSIVE FAMILY
4 17 SUPPORT SERVICES COUNCIL.

4 18 1. a. An eleven-member ~~personal assistance and~~
4 19 comprehensive family support ~~services~~ council is created in
4 20 the department. The members of the council shall be appointed
4 21 by the following officials as follows: governor, five
4 22 members; majority leader of the senate, three members; and
4 23 speaker of the house, three members. At least three of the
4 24 governor's appointments and one of each legislative chamber's
4 25 appointments shall be a family member of an individual with a
4 26 disability as defined in section 225C.47. At least five of
4 27 the members shall be service consumers of personal services.
4 28 Members shall serve for three-year staggered terms. A vacancy
4 29 on the council shall be filled in the same manner as the

4 30 original appointment.
4 31 b. The members of the council ~~shall be~~ are entitled to
4 32 reimbursement of actual and necessary expenses incurred in the
4 33 performance of their official duties. In addition, the
4 34 members are entitled to a stipend of fifty dollars for each
4 35 council meeting attended, subject to a limit of one meeting
5 1 per month. The expenses and stipend shall be paid from the
5 2 appropriation made for purposes of the comprehensive family
5 3 support program.

5 4 c. The council shall elect officers from among the
5 5 council's members.
5 6 2. The council shall provide ongoing guidance, advice, and
5 7 direction to the department and other agencies working with
5 8 the department in the development and implementation of the
5 9 ~~personal assistance services family support subsidy~~ program
5 10 created in section ~~225C.46~~ 225C.36 and the comprehensive
5 11 family support program created in section 225C.47. The
5 12 council shall perform an annual evaluation of each program,
5 13 and annually make recommendations concerning each program to
5 14 the governor and general assembly. The evaluation and
5 15 recommendations shall be prepared and submitted in conjunction
5 16 with the evaluation report submitted by the department
5 17 pursuant to section 225C.42. The department shall provide

5 18 sufficient staff support to the council to enable the council
5 19 to carry out its responsibilities.

5 20 3. The council shall perform the following duties in
5 21 consultation with the department and any department staff with
5 22 duties associated with the ~~personal assistance services family~~
5 23 ~~support subsidy~~ and comprehensive family support programs:

5 24 a. Oversee the operations of the programs.

5 25 b. Coordinate with the department of education and
5 26 programs administered by the department of education to
5 27 individuals with a disability, in providing information to
5 28 individuals and families eligible for the programs ~~under~~
5 29 ~~sections 225C.46 and 225C.47.~~

5 30 c. Work with the department and counties regarding managed
5 31 care provisions utilized by the department and counties for
5 32 services to individuals with a disability to advocate the
5 33 inclusion of ~~personal assistance services family support~~
5 34 ~~subsidy~~ and the comprehensive family support ~~program~~ programs
5 35 as approved service provisions under managed care.

6 1 d. Develop and oversee implementation of evaluation
6 2 processes for the programs.

6 3 e. Oversee statewide training of department and family
6 4 support center staff regarding the ~~two~~ programs.

6 5 f. Oversee efforts to promote public awareness of the
6 6 programs.

6 7 4. The department shall consider recommendations from the
6 8 council in developing and implementing each program, including
6 9 the development of administrative rules. The department shall
6 10 regularly report to the council on the status of each program
6 11 and any actions planned or taken by the department related to
6 12 each program.

6 13 Sec. 13. Section 225C.46, Code 2005, is repealed.

6 14 Sec. 14. TRANSITION PROVISIONS == EFFECTIVE DATE.

6 15 1. If a family that adopted a special needs child receives
6 16 the family support subsidy under section 225C.38 and also
6 17 receives financial assistance under section 600.17 for the
6 18 same child as of the effective date of this subsection, the
6 19 department of human services shall provide notice to the
6 20 family that the family will no longer be eligible for the
6 21 family support subsidy for that child once the current
6 22 eligibility period ends. The notice shall be sent by May 1,
6 23 2006, or the date the governor signs this Act, whichever date
6 24 is later. This subsection, being deemed of immediate
6 25 importance, takes effect upon enactment.

6 26 2. If a family that receives the family support subsidy
6 27 under section 225C.38 as of July 1, 2006, also receives
6 28 medical assistance home and community-based waiver services
6 29 and lives in a county in which the comprehensive family
6 30 support program services are available, effective January 1,
6 31 2007, the family is not eligible to receive the family support
6 32 subsidy. The department of human services shall notify the
6 33 families affected by this subsection on or before July 1,
6 34 2006. This subsection, being deemed of immediate importance,
6 35 takes effect upon enactment.

7 1 3. Any savings generated by the requirements of this
7 2 section and the program changes implemented pursuant to this
7 3 Act during the fiscal year beginning July 1, 2006, shall be
7 4 used by the department of human services to provide
7 5 eligibility for families on the waiting list for the family

7 6 support subsidy program. If the waiting list is eliminated,
7 7 any remaining funds shall be used to expand the comprehensive
7 8 family support program during that fiscal year.

7 9 DIVISION II

7 10 PERSONAL ASSISTANCE SERVICES PROGRAM REPEAL ==

7 11 CONFORMING AMENDMENTS

7 12 Sec. 15. Section 216E.1, subsection 1, Code 2005, is
7 13 amended to read as follows:

7 14 1. "Assistive device" means any item, piece of equipment,
7 15 or product system which is purchased, or whose transfer is
7 16 accepted in this state, and which is used to increase,
7 17 maintain, or improve the functional capabilities of
7 18 individuals with disabilities concerning a major life activity
7 19 ~~as defined in section 225C.46.~~ "Assistive device" does not
7 20 mean any medical device, surgical device, or organ implanted
7 21 or transplanted into or attached directly to an individual.
7 22 "Assistive device" does not mean any device for which a
7 23 certificate of title is issued by the state department of
7 24 transportation but does mean any item, piece of equipment, or
7 25 product system otherwise meeting the definition of "assistive
7 26 device" that is incorporated, attached, or included as a
7 27 modification in or to such a certificated device.

7 28 Sec. 16. Section 216E.1, Code 2005, is amended by adding
7 29 the following new subsection:

7 30 NEW SUBSECTION. 9A. "Major life activity" includes
7 31 functions such as caring for one's self, performing manual
7 32 tasks, walking, seeing, hearing, speaking, breathing,
7 33 learning, or working.

7 34 Sec. 17. Section 225C.49, subsection 3, paragraph b, Code
7 35 2005, is amended to read as follows:

8 1 b. Utilize internal training resources or contract for
8 2 additional training of staff concerning the information under
8 3 paragraph "a" and training of families and individuals as
8 4 necessary to ~~develop plans and contracts~~ implement the family
8 5 support subsidy and comprehensive family support programs
8 6 under sections 225C.46 and 225C.47 this chapter.

8 7 Sec. 18. Section 225C.49, subsection 4, Code 2005, is
8 8 amended to read as follows:

8 9 4. The department shall designate one individual whose
8 10 sole duties are to provide central coordination of the
8 11 programs under sections ~~225C.46~~ 225C.36 and 225C.47 and to
8 12 work with the ~~personal assistance and comprehensive~~ family
8 13 support services council to oversee development and
8 14 implementation of the programs.

8 15 Sec. 19. Section 422.11E, subsection 4, paragraph b, Code
8 16 2005, is amended to read as follows:

8 17 b. "Disability" means the same as defined in section
8 18 ~~225C.46~~ 15.102 except that it does not include alcoholism.

8 19 Sec. 20. Section 422.33, subsection 9, paragraph c,
8 20 subparagraph (2), Code Supplement 2005, is amended to read as
8 21 follows:

8 22 (2) "Disability" means the same as defined in section
8 23 ~~225C.46~~ 15.102, except that it does not include alcoholism.

8 24 EXPLANATION

8 25 This bill relates to certain human services programs
8 26 directed to families with a child with a disability and to
8 27 persons with a disability. The bill is organized into
8 28 divisions with the first providing substantive changes and the
8 29 other conforming amendments.

8 30 Division I revises provisions involving the family support
8 31 subsidy program, repeals the personal assistance services
8 32 program, revises the comprehensive family support program, and
8 33 revises the name and duties of the personal assistance and
8 34 family support services council. These provisions are all
8 35 part of Code chapter 225C, relating to mental health, mental
9 1 retardation, developmental disabilities, and brain injury
9 2 services.

9 3 Code section 225C.37, relating to the application process
9 4 for the family support subsidy program, is amended to require
9 5 the application to identify an age of eligibility end date.
9 6 The age identified is subject to approval by the department.
9 7 The bill also amends Code section 225C.40 to provide for
9 8 appeal of the department's disapproval.

9 9 Code section 225C.38, relating to the department's
9 10 administration of the family support subsidy program, is
9 11 amended to prohibit program eligibility if any of the
9 12 following apply: the family adopted a special needs child and
9 13 is receiving an adoption subsidy under Code section 600.17; or
9 14 a person receives medical assistance (Medicaid) home and
9 15 community-based waiver services and lives in a county in which
9 16 comprehensive family support program services are available.

9 17 The bill includes transition provisions with an immediate
9 18 effective date requiring the department to notify affected
9 19 families participating in the subsidy of the changes in
9 20 eligibility provisions. In addition, the department is
9 21 directed to utilize any savings realized from the changes for
9 22 families on the family support subsidy waiting list and for
9 23 expansion of the comprehensive family support program.
9 24 Code section 225C.41, providing for nonreversion of
9 25 appropriations made for purposes of the family support subsidy
9 26 program, is amended to allow carryforward funds to also be
9 27 used for the expansion of the comprehensive family support
9 28 program.
9 29 Code section 225C.42, requiring periodic evaluation of the
9 30 family support subsidy program, is amended to require an
9 31 annual evaluation to be conducted in conjunction with the
9 32 comprehensive family support council (renamed from the
9 33 personal assistance and family support council in the bill).
9 34 In addition, the bill provides a submission date of October 30
9 35 for the evaluation of the previous fiscal year.

10 1 Code section 225C.47, relating to the comprehensive family
10 2 support program, is amended to delete references to the
10 3 personal assistance services program that is repealed by the
10 4 bill. In addition, the children-at-home component of the
10 5 program is eliminated and replaced with a requirement for the
10 6 department to develop a family support center to assist
10 7 families with the family support subsidy program and
10 8 comprehensive family support program.

10 9 Code section 225C.48 is amended to change the name of the
10 10 personal assistance and family support services council to the
10 11 comprehensive family support council. In addition, the
10 12 council members are authorized to receive a stipend for
10 13 meeting attendance and the council is directed to work with
10 14 the family support subsidy program in place of the personal
10 15 assistance services program repealed by the bill.

10 16 Code section 225C.46, relating to the personal assistance
10 17 services program, is repealed. The program enrollment was
10 18 limited to existing enrollees for several years in the annual
10 19 human services appropriations bill, and no funding for the
10 20 program was appropriated for FY 2005=2006.

10 21 Division II provides conforming amendments for the bill's
10 22 repeal of the personal assistance services program in Code
10 23 section 225C.46. Several Code sections utilize definitions
10 24 contained in Code section 225C.46.

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